

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

**ASSOCIATED BUILDERS AND
CONTRACTORS OF SOUTHEAST
TEXAS, INC, et al,**

Plaintiffs

vs.

JULIE SU, et al,

Defendants.

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CASE NO. 1:23-CV-00396

**JUDGE MICHAEL J.
TRUNCALE**

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs hereby notify the Court of additional aspects of the newly issued case decision referenced in Defendants' June 25, 2024 Notice of Decision (Doc. 28), that are relevant to the present case. *See Assoc. Gen. Contractors of Am. et al. v. U.S. Dep't of Labor*, No. 5:23-cv-00272-C, slip op. at 38–39 (N.D. Tex. June 24, 2024) (“*AGC*”). In the *AGC* decision, the Northern District of Texas issued a nationwide preliminary injunction against enforcement of DOL rule changes specifically challenged by Plaintiffs here.¹ In doing so, Judge Cummings expressly held that the *AGC* plaintiffs had standing to sue, rejecting the same or similar arguments as those raised by Defendants in the present case (*AGC*, pp. 6-12, 17). The *AGC*

¹ As acknowledged in Defendants' Notice, Judge Cummings' *AGC* ruling preliminarily enjoined enforcement of 29 C.F.R. 5.2 relating to truck drivers and material suppliers, and 29 C.F.R. 5.5(e) relating to “operation of law.” Plaintiffs have challenged all of these provisions in the present case.

decision also found Defendants were likely to succeed in proving violations of the Davis-Bacon Act, Administration Procedure Act and Regulatory Flexibility Act, again rejecting arguments Defendants have made in the present case. (AGC, pp. 23-33).

Finally, Plaintiffs call to the Court's attention Judge Cummings' preceding order denying the Department's motion to dismiss the AGC complaint. (*AGC*, Doc. 43). The *AGC* court concluded that the plaintiffs had sufficiently alleged standing so as to withstand Defendants' motion to dismiss for lack of jurisdiction. The court subsequently reaffirmed and expanded upon this holding in issuing the preliminary injunction.

A copy of the *AGC* decision has been attached to Defendants' Notice. (Doc 28). A copy of Judge Cummings' order denying DOL's motion to dismiss is attached hereto.

Dated: June 26, 2024

Respectfully submitted,

/s/ Maurice Baskin

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2024, the foregoing Notice of Supplemental Authority to Motion to Dismiss was electronically filed with the Clerk of the Court, using the ECF system, thereby sending notification of such filing to counsel for Defendants:

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